



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jim Shannon

SUBJECT: SEE BELOW

DATE: May 31, 2023

Approved

Date:

6/9/2023

SUBJECT: ADOPTION OF A RESOLUTION IN COMPLIANCE WITH ARTICLE XIII B OF THE CONSTITUTION OF THE STATE OF CALIFORNIA AND AS MODIFIED BY PROPOSITION 111 AND SB 88 ELECTING THE POPULATION AND INFLATION FACTORS AND ESTABLISHING THE FISCAL YEAR 2023-2024 APPROPRIATION LIMIT

RECOMMENDATION

Adopt a resolution taking the following actions with respect to the City's 2023-2024 “Gann Limit”:

1. Elect the per capita income index as the inflation factor for 2023-2024 on a provisional basis, with the option to adjust the Limit, if necessary, once the non-residential assessment data is available from the County Assessor;
2. Elect the County of Santa Clara population growth index as the population factor for 2023-2024; and
3. Establish the Fiscal Year 2023-2024 Appropriation Limit at \$1,462,637,396 in compliance with Article XIII B of the State Constitution.

SUMMARY AND OUTCOME

The establishment of the 2023-2024 Appropriation Limit (Gann Limit) is necessary to comply with Article XIII B of the State Constitution.

BACKGROUND

California voters approved an initiative on November 6, 1979 that added Article XIII B to the State Constitution. The provisions of this article place limits on the amount of revenue that can be appropriated by all entities of government. The Appropriation Limit is based on actual appropriations during the 1978-1979 fiscal year, as increased each year using specified population and inflationary growth factors.

The original legislation implementing the provisions of Article XIII B became effective January 1, 1981. In accordance with that legislation, the governing body of each government jurisdiction must, by resolution, establish its annual Appropriation Limit for the coming year (prior to July 1) at a regularly scheduled meeting or noticed special meeting.

The original Article XIII B (Proposition 4) and its implementing legislation Chapter 1205/80 were modified by Proposition 111 and Senate Bill 88 (Chapter 60/90). Significant changes imposed by Proposition 111 include the following:

- The provision of a choice in methodologies for determining the annual inflation factor between (1) growth in California per capita income, or (2) growth in non-residential assessed valuation due to new construction within the City.
- The provision of a choice in methodologies for determining the annual population growth factor between (1) City population growth, or (2) County population growth.
- Regulations allowing the exclusion of “qualified capital outlay” expenditures from the calculation of the Limit.
- Provision of a process for avoiding tax refunds if a City falls sufficiently below the Limit in the next fiscal year. The revised language provides two years, beyond the second year, to refund any remaining excess during which jurisdictions can seek to obtain a successful override vote.

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ANALYSIS

The State Constitution (Article XIII B) specifies that the Appropriation Limit restricts the amount of revenue that can be appropriated. Not all revenues are restricted by the Limit, only those that are “proceeds of taxes”. The majority of the major General Fund revenue sources (Sales Tax, Property Tax, Utility Taxes, Business Taxes, Real Property Transfer Tax) are classified as proceeds of taxes, and are, therefore, subject to the Limit. A number of special fund and capital fund revenue sources are also subject to the Limit, such as local construction tax and conveyance tax revenues. Each revenue source is reviewed annually for classification as subject to, or exempt from, this Limit.

Appropriation Limit Adjustment Factors

In addition, proceeds of taxes may be spent on several types of appropriations that do not count against the Limit. The law allows a city to spend tax proceeds on voter-approved debt, costs of complying with court orders and federal mandates, with certain restrictions, and expenditures for qualified capital outlay. Appropriations for these excludable categories do not count against the Limit.

As a result of Proposition 111, the City is required to choose between two annual inflation factors and two population growth factors.

The choice offered for the annual inflation factor is the greater of (1) the growth in California per capita income or (2) the growth in non-residential assessed valuation due to new construction within the City. The data necessary to calculate the increase in non-residential assessed valuation is not currently available from the County Assessor. Until such information is available, it is recommended that the City approve the 2023-2024 Appropriation Limit on a provisional basis using the inflation factor of California per capita income.

The choice offered for the annual population growth factor is the greater of the growth in City or County population. The California State Department of Finance provided the 2023 population growth rates for both the City of San José and County of Santa Clara at -0.47% and -0.25%, respectively. Based on these growth rates, it is recommended that the City Council approve the 2023-2024 Appropriation Limit using the County’s population growth factor.

Calculation of the 2023-2024 Appropriation Limit

The application of the annual growth factors to the 2022-2023 Limit result in a 2023-2024 Limit of \$1,462,637,396:

2022-2023 Appropriation Limit	\$1,403,967,018
Inflation factor	X 1.0444
Population factor	X <u>0.9975</u>
2023-2024 Appropriation Limit	<u>\$1,462,637,396</u>

Based on these calculations, the City Attorney, as required by the State Constitution, has prepared a resolution for City Council consideration that would establish the 2023-2024 Appropriation Limit for the City of San José at \$1,462,637,396.

Appropriations Subject to the Limit

The amounts in the City's 2023-2024 Proposed Budget subject to the Limit (net proceeds of taxes) total \$1,162,093,863, which represent 79% of the Appropriation Limit. This amount is approximately \$300.5 million below the required Limit:

2023-2024 Appropriation Limit	\$ 1,462,637,396
2023-2024 Appropriations Subject to Limit	<u>(1,162,093,863)</u>
Amount Under Limit	<u>\$ 300,543,533</u>

When the annual budget is prepared each year for the City of San José, the appropriations subject to the Appropriation Limit are typically well below the Appropriation Limit as shown below:

Fiscal Year	Appropriation Limit	Appropriations Subject to the Limit*	Amount Under Limit
2022-2023	\$1.40 billion	\$1.11 billion	\$290 million
2021-2022	\$1.31 billion	\$1.05 billion	\$263 million
2020-2021	\$1.25 billion	\$910 million	\$341 million
2019-2020	\$1.20 billion	\$837 million	\$364 million
2018-2019	\$1.15 billion	\$826 million	\$326 million

* Actual data used for 2018-2019 through 2021-2022; Proposed Budget data used for 2022-2023.

Over the last five years, and including 2023-2024, the City's appropriations subject to the Appropriation Limit have remained well below the Appropriation Limit, with these appropriations totaling between 72% and 80% of the Appropriation Limit. Given the size of this gap, it is unlikely that the City will exceed the Appropriation Limit in the upcoming years without significant changes to the City's tax structure.

EVALUATION AND FOLLOW-UP

At the end of the 2023-2024 fiscal year, the Finance Department will reconcile actual revenues and expenditures to ensure compliance with the Gann Limit.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 20, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT


No commission recommendation or input is associated with this action.

CEQA

Not a project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.


JIM SHANNON
Budget Director

For questions, please contact Selena Ubando, Assistant to the City Manager, City Manager's Budget Office, at (408) 535-8138.